



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2012-1001]

RIN 1625-AA00

Safety Zones; Annual Firework Displays within the Captain of the Port, Puget Sound Area of Responsibility

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is adding three new fireworks events and correcting the location of five existing events outlined in 33 CFR 165.1332 to ensure public safety during annual firework displays at various locations in the Captain of the Port, Puget Sound Area of Responsibility. When these safety zones are activated and subject to enforcement, this rule limits the movement of vessels within the established firework display areas. These additions and corrections are necessary to prevent injury and to protect life and property of the maritime public from hazards associated with firework displays.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2012-1001]. To view documents mentioned in this

preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail ENS Nathaniel P. Clinger, Coast Guard Sector Puget Sound, Waterways Management Division, U.S. Coast Guard; telephone (206) 217-6045, e-mail SectorPugetSoundWWM@uscg.mil.

If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register

A. Regulatory History and Information

The Coast Guard published a notice of proposed rulemaking , Safety Zones; Annual Firework Displays within the Captain of the Port (COTP), Puget Sound Area of Responsibility, Docket No. USCG-2012-1001 on February 5, 2013. The Coast Guard published the

following temporary final rules; Multiple Firework Displays within the Captain of the Port, Puget Sound Area of Responsibility WA, Docket No. USCG-2010-0591 on July 2, 2010, Docket No. USCG-2011-0450 on June 8, 2011, and Docket No. USCG-2012-0488 on June 15, 2012. The Coast Guard received zero comments submitted via regulations.gov and received zero requests for public meeting for these regulations.

B. Basis and Purpose

This rule corrects the coordinates of five firework displays outlined in 33 CFR 165.1332, located within the greater Puget Sound Area, to accurately reflect the correct position of the firework displays. This rule also adds three new firework display locations, and changes the title of the rule to accurately reflect what is codified in 33 CFR 3.65-10. These actions are necessary in order to restrict vessel movement and reduce vessel congregation in the proximity of firework discharge sites to ensure maritime public safety.

C. Discussion of Comments, Changes and the Final Rule

This rule amends the following firework display positions: *City of Renton Fireworks*; coordinates are revised to read: latitude 47° 30.386'N, longitude 122° 12.502'W. *Bainbridge Island Fireworks*; coordinates are revised to read: latitude 47° 37.142'N, longitude 122° 30.397'W. *Port Townsend Sunrise Rotary*; coordinates are revised to read: latitude 48° 08.413'N, longitude 122° 45.531'W. *Tacoma Freedom Fair*; coordinates are

revised to read: latitude 47° 17.103'N, longitude 122° 28.410'W. *Brewster 4th of July*; coordinates are revised to read: latitude 48° 05.362'N, longitude 119° 47.147'W.

This rule adds the following firework displays: *Port Ludlow Fireworks*, latitude 47° 55.161'N, longitude 122° 41.157'W; *Boston Harbor 4th of July*, latitude 47° 08.626'N, longitude 122° 54.149'W; *Everett 4th of July*, latitude 48° 00.672'N, 122° 13.391'W.

Additionally, a further change is being made to *Port Townsend Sunrise Rotary*. Coordinates will be revised to read: latitude 48° 08.413'N, longitude 122° 45.531'W as the original posting of this rule listed the latitude as 47° 08.413'N instead of the intended 48° 08.413'N. This change is a non-substantive substitution that does not change the originally intended size or shape of the safety zone.

These safety zones extend 450 yards from their launch site. This zone size allows for the use of up to a 16" mortar shell in annual firework displays. However, safety zones will only be enforced for the appropriate size for the largest mortar shell used. These zones are nominal in size and are typically positioned in areas which allow for transit around the zone. Thus, these zones have an inconsequential impact on the majority of waterway users. These zones are also short in duration and allow waterway users to enter or transit through the zone when deemed safe by the on-scene patrol commander. Through this

action, the COTP intends to promote the safety of personnel, vessels, and facilities in the area.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The Coast Guard bases this finding on the fact that the safety zones listed will be in place for a limited period of time and are minimal in duration, and vessel traffic will be able to transit around the safety zones.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and

governmental jurisdictions with populations of less than 50,000. The Coast Guard received zero comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule affects the following entities, some of which may be small entities: the owners and operators of vessels intending to operate in the waters covered by the safety zone while it is in effect. This rule does not have a significant economic impact on a substantial number of small entities because the safety zones will be in place for limited periods of time and maritime traffic will still be able to transit around the safety zones. Maritime traffic may also request permission to transit through the zones from the COTP, Puget Sound or a Designated Representative.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture

Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety

that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the amendment of safety zones listed in 33 CFR 165.1332. This

rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapters 701, 3306, 3707; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

2. In § 165.1332, amend the table in paragraph (a)(1) by:

a. Revising the entries for "Tacoma Freedom Fair," "City of Renton Fireworks," "Bainbridge Island Fireworks," "Brewster Fire Department Fireworks," and "Port Townsend Sunrise Rotary;" and

b. Adding entries for "Port Ludlow Fireworks," "Boston Harbor 4th of July," and "Everett 4th of July."

The revisions and additions read as follows:

§ 165.1332 Safety Zones; Annual Fireworks Displays within the Captain of the Port Puget Sound Zone.

(a) * * *

(1) * * *

<u>Event name</u> <u>(typically)</u>	<u>Event location</u>	<u>Latitude</u>	<u>Longitude</u>
Tacoma Freedom Fair	Commencement Bay	47° 17.103' N	122° 28.410' W

<u>* *</u>	<u>* *</u>	<u>* *</u>	<u>*</u>
City of Renton Fireworks	Renton, Lake Washington	47° 30.386' N	122° 12.502' W

<u>* *</u>	<u>* *</u>	<u>* *</u>	<u>*</u>
Bainbridge Island Fireworks	Eagle Harbor	47° 37.142' N	122° 30.397' W

<u>* *</u>	<u>* *</u>	<u>* *</u>	<u>*</u>
Brewster Fire Department Fireworks	Brewster	48° 05.362' N	119° 47.147' W

<u>* *</u>	<u>* *</u>	<u>* *</u>	<u>*</u>
Port Townsend Sunrise Rotary	Port Townsend	48° 08.413' N	122° 45.531' W

<u> * *</u>	<u> * *</u>	<u> * *</u>	<u> *</u>
Port Ludlow Fireworks	Port Ludlow	47° 55.161' N	122° 41.157' W
Boston Harbor 4 th of July	Boston Harbor	47° 08.626' N	122° 54.149' W
Everett 4 th of July	Port Gardner	48° 00.672' N	122° 13.391' W

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Dated: April 24, 2013

S. J. Ferguson
Captain, U.S. Coast Guard
Captain of the Port, Puget Sound

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Date: 05/17/2013]